IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 13121 of 2004

Between:

Sri. R.V. Raghavulu, S/o. Mallaiah,
O/o. II Addl. District Court, Guntur, R/o. Yadvas Street, 2/9, Old Guntur, Guntur.

..... PETITIONER

AND

1. The State of Andhra Pradesh, Department of Finance & Planning, represented by its Principal Secretary, Secretariat Buildings, Hyderabad.
2. The District Treasury Officer, Guntur Collectorate Compound,
Guntur, Guntur District.
3.The II Additional District Judge, Guntur, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not releasing / disbursing the advance increments to the petitioner with effect from his promotion as Steno-Typist for acquiring Law Degree as sanctioned by the 3rd respondent, as illegal, discriminatory, arbitrary and unconstitutional.

Counsel for the Petitioner: Mr. VENKATESWARLU POSANI

Counsel for Respondent Nos 1& 2.: G.P. for Finance & Planning

Counsel for Respondent No.3: Mrs. M.Bhaskara Lakshmi,

SC for High Court.

The Court made the following :

ORAL ORDER:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

This is a writ petition filed by a Steno-typist working in the Court of II Additional District Court, Guntur. His grievance is that he was entitled to two increments with effect from November, 1996, as he had acquired LL.B. qualification in the year 1995. The District Judge sanctioned two increments. When the bills were sent to the Treasury Office, the Treasury Officer returned the bills taking objection and holding that the petitioner was not entitled to additional increments. There was lot of correspondence between the Treasury Officer and the District Judge, which may not be relevant for the purpose of disposal of this Writ Petition. The petitioner relied on G.O.Ms.No.142 and G.O.Ms.No.147 for the purpose of claiming increments with effect from November, 1996, whereas the Treasury Officer was of the opinion that in terms of these two G.Os., the petitioner was not entitled to any increment. Paragraph 9 of G.O.Ms.No.142 laid down:

> " 9. The Government after careful consideration of the matter and keeping in view the Judgment of the High Court of Andhra Pradesh have decided to implement the Judgment of the Division Bench of the High Court. The Government accordingly hereby accord sanction for allowing two advance increments to the following categories of employees working in the Andhra Pradesh High Court, District Courts and Subordinate Courts under Judicial Department for possessing or acquiring the decree of Law from any University recognized by the University Grants Commission.

A. High Court of Andhra Pradesh.

Assistant Registrars, Court Officers, Section Officers, Court Masters, Deputy Section Officers, Assistant Section Officers and Junior Assistants of High Court of Andhra Pradesh.

B. District Courts and Subordinate Courts in Judicial Department.

Sheristadar, Nazirs, Deputy Nazirs, Translators, Senior Assistants, U.D.Record

Keepers and Junior Assistants working in Subordinate Courts of Judicial Department."

A bare perusal of this para shows that only those persons were entitled to two advance increments on acquisition of the qualification of LL.B., who are mentioned in Category A as far as High Court is concerned, and, category-B, as far as the District and Subordinate courts are concerned. The post of Steno-typist is not found in the category of District Courts. Therefore, in our view, in terms of this G.O., the petitioner was not entitled to any additional increments on acquisition of qualification of LL.B. Similarly, G.O.Ms.No.10 laid down that a Steno-typist acquires qualification of LL.B. only after acquiring qualification of graduation and on getting such qualification, he is entitled to one increment. Therefore, the Steno-typist on acquiring the qualification of LL.B. should not be paid any further increment. In paragraphs 4 and 5, it is stated:

"4. If while working as Steno-Typist they had acquired one advance increment upon acquisition of a higher qualification other than the minimum prescribed qualification, then they would not be entitled to a further increment while working in the same category of Steno-Typist in the event of their acquiring a LL.B. degree. Therefore, in each case of Steno-typist the fact has to be verified.

5. However, if any of the Steno-Typist are held not entitled to increment on passing LL.B. because he had got one increment upon graduation, no recovery of increments already drawn will be made."

The only dispute which is raised by the learned counsel for the petitioner is that this G.O. should be given retrospective effect, as in para 5, the Government had stated that if any amounts have been previously disbursed, they should not be recovered. Such an observation in paragraph 5 does not make the G.O. retrospective. It is well known principle of law that all Laws including the G.Os. are prospective unless their operation is made retrospective. From a perusal of this G.O., there is nothing to show that it had retrospective application. In the first instance, Steno-typists were not added to the list of beneficiaries and reasons were given in G.O.Ms.No.10 that Steno-typists would get two increments on acquisition of qualification of Graduation. Therefore, there was no mistake, but, it was a conscious effort by the Government to keep Steno-typists out of this benefit. Because there was a judgment of the Supreme Court, to which, reference has been made in G.O.Ms.No.147, therefore, these two

additional increments were also sanctioned in favour of Steno-typists. For these reasons, we find that the petitioner was entitled to additional increments on the basis of acquisition of qualification of LL.B. with effect from 20.10.2000 and not prior to that, and direct that he shall be paid accordingly.

The Writ Petition is, therefore, allowed. No costs.

_____

BILAL NAZKI, ACJ.

8.6.2005.

_____

G.CHANDRAIAH, J.

VR.

That Rule Nisi has been made absolute as above.

Witness the Honourable Sri Bilal Nazki, the Acting Chief Justice on this Wednesday the eighth day of June, Two thousand and five.

Asst. Registrar.

To

1. The Principal Secretary to Government of Andhra Pradesh, Department of Finance & Planning, Secretariat Buildings, Hyderabad.
2. The District Treasury Officer, Guntur Collectorate Compound, Guntur, Guntur District.
3.The II Additional District Judge, Guntur, Guntur District.

4. Two CCs to Government Pleader for Finance, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.